

PHILIP J. NATHANSON Arizona State Bar #013624
THE NATHANSON LAWE FIRM
8765 E. Bell Rd. – Suite 101
Scottsdale, AZ 85260
(480) 419-2578
(480) 419-4136

Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

BARBARA BORCHERS and JERALD S.	:	
CHESLER, as TRUSTEE OF THE BETTY D.	:	Case No. CV08-02138-PHX-ROS
OLSON REVOCABLE TRUST, and THE	:	
OLSON LIVING TRUST,	:	
	:	PLAINTIFFS' AMENDED COMPLAINT
Plaintiffs,	:	
	:	Plaintiffs Demand a Jury Trial
V.	:	
	:	
THE VANGUARD GROUP, INC., and	:	
VANGUARD MARKETING	:	
CORPORATION,	:	
	:	
Defendants.	:	

Plaintiffs, BARBARA BORCHERS and JERALD S. CHESLER, a Trustee of the OLSON LIVING TRUST and the BETTY D. OLSON REVOCABLE TRUST, by their attorney, PHILIP J. NATHANSON of THE NATHANSON LAW FIRM, complain against defendants, THE VANGUARD GROUP INC., a foreign corporation, and VANGUARD MARKETING CORPORATION. In support thereof, plaintiffs allege as follows:

1. Plaintiff, BARBARA BORCHERS, is a Trustee of the OLSON LIVING TRUST, and she had a power of attorney authorizing her to deal with, manage and control the financial affairs of her mother, BETTY D. OLSON. BETTY D. OLSON was also a Trustee of the OLSON LIVING TRUST. BETTY D. OLSON died on March 19, 2009.

1 2. Plaintiff JERALD S. CHESLER, is a Trustee of the OLSON LIVING TRUST
2 and a Trustee of the BETTY D. OLSON REVOCABLE TRUST. Mr. Chesler is a citizen
3 of Arizona, who practices law in Carefree, Arizona.

4 3. Defendants THE VANGUARD GROUP, INC., a foreign corporation, and
5 VANGUARD MARKETING CORPORATION, a foreign corporation (hereinafter
6 collectively referred to as "THE VANGUARD GROUP"), are corporations that were
7 incorporated in Pennsylvania, and that are authorized to, and have in facts been,
8 conducting business in Phoenix, Maricopa County, Arizona, in the form of operating and
9 managing certain money market funds and brokerage accounts.

10 4. Plaintiffs the OLSON LIVING TRUST, the BETTY D. OLSON
11 REVOCABLE TRUST and BARBARA BORCHERS opened and maintained certain
12 Vanguard Mutual Fund, Vanguard Money Market and Vanguard brokerage accounts
13 with THE VANGUARD GROUP. In view of their status, plaintiffs may bring this action
14 to require the defendants to re-credit the accounts, or return the funds to plaintiffs' for the
15 wrongful disbursement of forged checks.

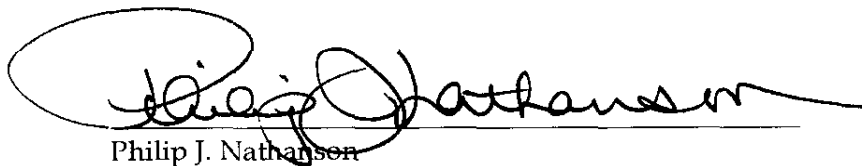
16 5. While THE VANGUARD GROUP had possession of, and control over,
17 plaintiffs' accounts, said defendants permitted the son of BETTY D. OLSON,
18 Michael Olson, to unlawfully access those accounts, and THE VANGUARD GROUP paid
19 out on drafts and checks in excess of \$100,000 that were forged by Michael Olson so that
20 he could obtain funds from those accounts for his own use and benefit.

21 6. Plaintiffs timely reported the foregoing forgeries and improper access to
22 the VANGUARD GROUP. However, despite that timely notification, the defendants
23 failed to recredit the accounts, as they were required to do so.
24
25

1 7. Additionally, THE VANGUARD GROUP failed to exercise ordinary care in
2 the processing of the foregoing checks and drafts, and further failed to exercise ordinary
3 care in the management of these accounts, in that said defendants violated the
4 defendants' prescribed procedures and also violated general banking usage. That failure
5 to exercise ordinary care by THE VANGUARD GROUP substantially contributed to the
6 plaintiffs' loss in connection with the forgeries and other improper access to plaintiffs'
7 accounts.

8 WHEREFORE, Plaintiffs, BARBARA BORCHERS and JERALD S. CHESLER, a
9 Trustee of the OLSON LIVING TRUST and the BETTY D. OLSON REVOCABLE TRUST,
10 request this Court to enter judgment against defendants, THE VANGUARD GROUP,
11 INC., a foreign corporation, and VANGUARD MARKETING CORPORATION, a foreign
12 corporation, in an amount in excess of \$75,000.

13
14 BARBARA BORCHERS
15 JERRY CHESLER as TRUSTEE OF THE BETTY D.
16 OLSON TRUST and THE OLSON LIVING TRUST

17 
18 Philip J. Nathanson

19
20 Philip J. Nathanson Arizona State Bar #013624
21 THE NATHANSON LAW FIRM
22 8765 E. Bell Rd. -Suite 101
23 Scottsdale, AZ 85260
24 (480) 419-2578
25 (480) 419-4136 (FAX)
 philipj@nathansonlawfirm.com